

PREVIOUS LAWSUITS/JUROR SERVICE

If any of you would answer yes to any of these questions, please raise your hand.

During the past five years, have any of you served on a jury or been excluded from a jury?

Was it a civil or a criminal case?

If civil, what, in general, was the case about?

Without telling me the outcome, or who won, please tell me whether or not the jury reached a verdict.

Will you be able to put aside your prior jury experience as you sit in this case, to ignore completely anything you learned about the law or evidence in those cases, and decide this case solely on the basis of the evidence that I admit during this trial and on the law as I instruct you in it?

There is a substantial difference between the burden of proof in a criminal trial and the burden of proof in a civil trial. In a criminal trial, the

prosecution must prove all the essential facts beyond a reasonable doubt. In a civil trial such as this one, the burden of proof is less demanding. To win a civil case, plaintiff must prove all the essential facts by a preponderance of the evidence, which means that after the jury takes into account the evidence the parties have presented, the jury concludes that the essential facts are more likely true than not true.

Do any of you think you would have any difficulty in applying the preponderance of the evidence standard in this civil action?

Have you, or has anyone in your immediate family, been a party (either as a plaintiff or as a defendant) to any lawsuit, civil or criminal? If so, please raise your hand.

If so, who (you or a family member) was the party to the case?

Was the person a plaintiff or a defendant?

What was the nature of the case?

Was it tried by jury? Outcome?

Is there anything about that experience that would cause you to

question your ability to decide this case fairly and impartially,
only on the basis of the evidence I admit during this trial and
the law as I instruct you in it?

Have any of you ever been a witness in state or federal court in any
lawsuit, civil or criminal? Raise your hand.

Did you testify for the plaintiff or the defendant?

What was the nature of the case?

Is there anything about that experience that would cause you to
question your ability to decide this case fairly and impartially,
solely on the basis of the evidence I admit during this trial and
the law as I instruct you in it?

LAWS GENERALLY

Have you, or has anyone in your immediate family, attended law school or had any other training in the law?

If so, will you put whatever knowledge of the law you may have acquired before today out of your mind during this trial, and will you promise to apply only those legal principles in which I instruct you?

Do any of you have any specific feelings or opinions about lawsuits, lawyers or the parties who bring lawsuits, either positive or negative?

Do any of you have any personal objection to lawsuits that seek monetary compensation for injuries and damages suffered?

Do you have any specific feelings about the size of jury awards?

EMPLOYMENT AND DISCRIMINATION

Remind the jury that they can choose to answer questions in private if they wish.

I've already asked you about your current and previous occupations, and now I'll ask some more specific questions about your work experiences and your opinions on some issues that are relevant to this case:

Work Experiences

1. Have any of you ever had to promote, hire, fire, or discipline other employees at work?
 - A. What was your experience?
 - B. Has an employee ever complained about your decision?
 - C. Is there anything about your experience that would make you unable to be fair to both sides in this case?
2. Have you, or has anyone close to you, ever been accused of discriminating against someone or retaliating against someone because they complained about discrimination?
 - A. How was the problem resolved?

B. What did you think about that outcome?

C. Is there anything about that experience that would make you unable to be fair to both sides in this case?

4. Have you, or has anyone close to you, ever been turned down for a job or position, and felt that your race or sex was the reason for that decision?

5. Have you ever witnessed discrimination at work or been aware of a discrimination problem at work?

A. Did the person who experienced discrimination do anything about it?

B. Did you do anything about it?

6. Have you, or has anyone close to you, ever complained about discrimination at work?

A. To whom did you/they complain?

7. Have you, or has anyone close to you, ever felt retaliated against by an employer for complaining about discrimination at work?

Discrimination

8. Do you believe that some employees face sex or race discrimination at work?

What is your belief based on?

Could you put aside your belief and judge this case based only on the evidence that you hear at trial, and the law as I instruct you?

Do you have an opinion about whether discrimination complaints in the workplace are usually truthful or untruthful?

Do you think that some people claim discrimination at work as an excuse to cover up their weaknesses?

Could you put aside these beliefs and judge this case based only on the evidence that you hear at trial, and the law as I instruct you?

Parties

10. Have any of you ever had dealings with the Bay Area Air Quality Management District?

Do you have any particular feelings about this agency?

11. The plaintiff in this case is African-American. Would that affect your

ability to be fair in deciding this case?

Damages

12. The plaintiff in this case is suing her employer for money damages.

A. What do you think about parties who sue their employer because of something that happened to them at work?

B. What do you think about parties receiving money for emotional damages, that is emotional distress or suffering they experience because of something that has happened to them?

C. Would you be able to put aside any opinions you have in order to decide this case based only on the evidence that you hear at trial, and the law as I instruct you?

CLOSING QUESTIONS

Do any of you have any reluctance about serving as a juror?

Is there anyone who would feel any reluctance in joining the discussion with the members of the jury during deliberations?

Does any of you know anyone else sitting on the jury panel?

Is there anyone who would feel offended if other members of the jury disagreed with his or her view of the evidence?

It is your duty as a juror to listen to the opinions and points of view of the other members of the jury. Would any of you be unwilling to listen to a fellow juror who disagreed with you?

It is also your duty as a juror to express your opinion or point of view regarding the evidence to the other members of the jury. Is there anyone who would be unwilling to speak up and try to persuade other members of the jury who disagreed with your view of the evidence?

Is there anyone who would be unwilling to change an opinion if, after listening to the arguments of the other members of the jury, you were persuaded that your opinion was wrong?

In a trial the plaintiff puts on his evidence first, and then the defendants have the opportunity to put on their evidence. Do any of you think you might have difficulty keeping an open mind regarding this case until you have heard all the evidence and I have instructed you on the law?

If you are selected to sit as a juror, will you be able and willing to render a verdict solely on the evidence presented at the trial and the law as I instruct you and not based upon your emotions, or any preconceived notions about the facts or the law in this case? Is there anyone who thinks he or she cannot do that?

Do you understand that you must follow my instructions regarding the law whether you agree with the law or not? If that idea troubles you, please let me know.

As a juror, you may have to resolve conflicts in the testimony of witnesses. This means you may have to decide whether to believe or reject all or part of a witness's testimony or who is telling the truth. Is there any juror who feels this is not something he or she can do?

Can you think of any experience in your life or any other matter which occurs to you now that you think you should bring to my attention because it may have some bearing on your ability to be fair as a juror in this case?

From what you have heard about this case thus far, is there anything that causes any of you to believe that you cannot be fair and impartial as a

juror in this case?

Is there anything which has happened here this morning which any of you think may affect your ability to be fair and impartial to the parties that you have not told us about up to now?

Do you have any bias or prejudice, for or against, any of the parties or attorneys in this case?

Is there any reason at all why you can't be absolutely fair to the plaintiff in this case?

Is there any reason at all why you can't be absolutely fair to the defendant in this case?

Having heard all the questions put to you, do you know of any reason why you could not sit on this jury and render a fair verdict based on the evidence presented and the legal instructions I give you?